IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

DANNY DANTZLER on behalf of himself   PLAINTIFF
and those similarly situated

v.   CAUSE NO. 1:15CV126-LG-RHW

B&D CONTRACTING, INC., d/b/a
B&D CONTRACTING MS 2013,
WAYNE DAVIS and JOHN BOWIE   DEFENDANTS

ORDER DENYING MOTION TO DISMISS AS MOOT

BEFORE THE COURT is the Motion [35] to Dismiss for Lack of Subject

Matter Jurisdiction, filed by the Defendants after the Court's entry of a Final

Judgment. There has been no response filed. The Court finds that the Motion to

Dismiss is moot.

The Plaintiff filed proof of his acceptance of Defendants' Offer of Judgment

pursuant to Fed. R. Civ. P. 68 on October 30, 2015. (ECF No. 33). Once notice of the

offer and acceptance is filed with the clerk of the court, the clerk is required to enter

judgment. Fed. R. Civ. P. 68(a). The court generally has no discretion whether or

not to enter the judgment, as a Rule 68 Offer of Judgment is usually considered

self-executing. *Ramming v. Natural Gas Pipeline Co. of Am.*, 390 F.3d 366, 370-71

(5th Cir. 2004) (collecting cases). Accordingly, a Final Judgment was entered in this

case on November 2, 2015. (ECF No. 34).

Plaintiff's acceptance of the Offer of Judgment mooted his claims. *See Sandoz*

v. Cingular Wireless LLC, 553 F.3d 913, 919 (5th Cir. 2008). "'[I]f a case has been

rendered moot, a federal court has no constitutional authority to resolve the issues

that it presents.'" *Id.* at 915 (quoting *Envtl. Conservation Org. v. City of Dallas,* 529

F.3d 519, 525 (5th Cir. 2008)). Therefore, leaving aside the fact that final judgment

has entered and this case is closed, the Court may not adjudicate the Defendants'

Motion to Dismiss because the issues presented are moot.

IT IS THEREFORE ORDERED AND ADJUDGED that the Defendants'

Motion [35] to Dismiss for Lack of Subject Matter Jurisdiction is **DENIED** as moot.

SO ORDERED AND ADJUDGED this the 15th day of January 2016.

s\ *Louis Guirola, Jr.*
Louis Guirola, Jr.
Chief U.S. District Judge